

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

JAMES IRVING DALE,

Plaintiff,

vs.

DARIN YOUNG, WARDEN AT SOUTH
DAKOTA STATE PENITENTIARY;

Defendant.

1:16-CV-01037-CBK

ORDER

Petitioner filed an application for a Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2254, seeking release from state custody on the claimed basis that his sentence had expired. The respondent was ordered to file an answer and has done so.

It appears from the records and files herein that the defendant was released from custody on November 1, 2016. Pursuant to Article III, § 2, of the United States Constitution, “[t]he parties must continue to have a personal stake in the outcome of the lawsuit.” Spencer v. Kemna, 523 U.S. 1, 7, 118 S. Ct. 978, 983, 140 L. Ed. 2d 43 (1998). Because the petitioner has been subsequently released from prison, there is no case or controversy before the Court.

IT IS ORDERED the application for a Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2254, is moot and the same is denied.

DATED this 15th day of December, 2016.

BY THE COURT:


CHARLES B. KORNMANN
United States District Judge